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C O N F I D E N T I A L SARAJEVO 002574

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DEPARTMENT FOR EUR (A/S FRIED AND DAS DICARLO), EUR/SCE
(HOH/SILBERSTEIN/FOOKS/STINCHCOMB); NSC FOR BRAUN; OSD FOR
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SUBJECT: BOSNIA - POSSIBLE DEAL OPENS WINDOW FOR INITIALING
OF AN SAA

REF: A. SARAJEVO 2556
[1](#)B. SARAJEVO 2570
[1](#)C. SARAJEVO 2573

Classified By: Ambassador Charles English. Reason 1.4 (b) and (d).

[1](#)1. (C) SUMMARY: Developments over the course of November 29-30 have brought us very close to resolution of the political crisis over High Representative Lajcak's October 19 measures designed to facilitate decision-making in the Parliamentary Assembly (PA) and the Council of Ministers (CoM). This could also allow for Bosnia to initial a Stabilization and Association Agreement (SAA) with the EU as early as December 4. Lajcak told Quint Ambassadors on November 29 that EU Enlargement Commissioner Olli Rehn would accept the November 22 agreement by political leaders on implementation of the Mostar Declaration on Police Reform as sufficient to initial the SAA, provided leaders resolved the current crisis. Lajcak then outlined for Quint Ambassadors the elements of an agreement on his PA and CoM measures, which he believed would be acceptable to all parties. The Ambassador spoke with Bosniak political leaders on November 30 and urged them to accept the deal. Later the same day, both houses of parliament adopted new rules of procedure paralleling those Lajcak had presented to the Quint the day before. The HighRep and OHR legal experts will hold meetings with Serb, Bosniak and Croat parties over the weekend aimed at closing the deal on the CoM measures. The HighRep is confident that they will accept his latest proposal. The CoM would then meet on Monday, December 3 to formally adopt the November 22 political agreement on police reform, thereby clearing the way for initialing the SAA. END SUMMARY.

HighRep Delivers Irresistible Proposal

[1](#)2. (C) On November 29, the HighRep briefed Quint Ambassadors on his November 27 meetings in Brussels with Commissioner Rehn concerning the political situation in Bosnia. Lajcak said that he had told Rehn that, for him, the November 22 plan agreed to by political leaders to implement the Mostar Declaration on Police Reform was concrete enough to initial the SAA. Lajcak told the Quint he had also suggested to Rehn that the EU offer to initial the SAA, provided political leaders agreed to resolve the current crisis over the HighRep's October 19 measures. Lajcak reported to the Quint that Rehn had agreed with his proposed approach, adding that if it were successful, he would ask the European Police

Mission (EUPM) to establish a working group to assist the political parties with drafting police reform legislation once the SAA was initialed. Lajcak reminded the Quint that the SAA would be signed only after this legislation was adopted. Lajcak also told the Quint that since his return from Brussels, he had been talking with political leaders about a possible compromise on the October 19 measures. He then provided the Quint with a brief overview of his proposal.

Agreement on Measures Affecting Parliamentary Assembly

13. (C) The HighRep stressed that the aim of his original proposal on the Parliamentary Assembly was to ensure that the rules of procedure for the House of Representatives (HoR) and the House of Peoples (HoP) were consistent with the Constitution and that MPs could not block legislative business by failing to attend sessions or participate in decision making. His proposed changes to the rules governing an HoR quorum had been accepted by the parties, he reported, but Bosniaks, Serbs and Croats had been unable to agree on OHR-proposed language on HoR decision making. The root problem, he said, was that Serbs insisted that the Constitution requires legislation to have support from one-third of all MPs elected from the RS, whereas Bosniaks and Croats interpreted it to be support from one-third of all those RS MPs present and voting (OHR's interpretation).

14. (C) According to the HighRep's proposed compromise, the disputed article in the rules of procedure would refer directly to the Constitution, or alternatively, would copy and paste the text of the relevant article of the Constitution. This would preclude any dispute over the interpretation of majority calculation since the Constitution

clearly mentions the number of "votes" and not the number of "elected representatives," Lajcak maintained. In addition, Lajcak's compromise called for keeping language contained in the current rules that, he argued, clearly interprets the basis for calculating a majority of the number of votes and not the number of elected representatives. There would be no additional confirmation of this in writing as was initially proposed, however. If the rules were interpreted differently by Serbs, the Constitutional Court could decide the matter, Lajcak concluded.

Agreement on Measures Affecting the Council of Ministers

15. (C) Lajcak told the Quint that RS officials had agreed that his original Council of Ministers (CoM) measures would remain unchanged and that an "Authentic Interpretation" attached to the original measures would seek to address RS concerns about them. In the Authentic Interpretation there would be a clause stating that in the majority necessary for CoM final decisions, members of the CoM would make their "best efforts" to include the Chair and Vice Chairs. If the Chair or Vice Chair could not be present, that person (Chair or Vice Chair) would try to designate one Minister who would represent his vote. If the Chair or Vice Chair refused to do so, the CoM would work in accordance with Lajcak's original measure, such that the decision would be made by consensus of those present and voting.

Embassy's Efforts Generate Results

16. (C) In separate November 30 telephone calls to Party for Bosnia and Herzegovina (SBiH) President Haris Silajdzic and Party for Democratic Action (SDA) President Sulejman Tihic, the Ambassador urged both leaders to support the HighRep's proposed compromise on the PA measures and to instruct their deputies in the HoR and HoP to vote in favor of the measures during parliamentary sessions later that day. The Ambassador noted that the compromise constituted a careful balance that addressed Serb concerns while also remaining completely consistent with the Constitution. The Ambassador added that

approval of the agreement would put Bosnia on solid footing for a near-term initialing of an SAA with the EU.

17. (C) Tihic replied that Lajcak's staff had briefed him on the agreement the previous evening and he believed the proposed changes benefited all sides in Bosnia. The compromise, Tihic told us, gives both Dodik and the Bosniaks a face-saving way out of the crisis. For the Bosniaks, there remained the option to initiate proceedings in the Constitutional Court in the event of a dispute. He opined that there are sure to be problems with implementation as interpretations of the rules may vary. Nonetheless, he emphasized that SDA wanted to be part of the solution, not part of the problem. Tihic stated that, although he was aware that the new rules of procedure would not solve all outstanding problems, if supported by the High Representative, he would endorse them.

18. (C) In a short conversation with Silajdzic, the Ambassador reiterated the need for compromise and urged SBiH support for the package. Silajdzic replied that he tentatively supported the agreement but would have some "corrections and suggestions" to further improve it. The Ambassador urged Silajdzic to refrain from pursuing additions to the package, noting that further fine-tuning threatened to derail the entire agreement. Silajdzic replied that he understood.

Deal Brokered - Now We "Close the Loop"

19. (C) At the November 30 Steering Board Ambassador's Meeting, HighRep Lajcak announced that the PA Rules of Procedure, "with minor adjustments," had been approved by the HoR and HoP Collegia. This, he said, included support from all six governing coalition parties. Lajcak reported that he expected the PA to adopt the new rules later in the day. (Note: Both the HoR and HoP adopted the new rules in the early evening of November 30. End Note.) The HighRep concluded that the prospect of a deal on the PA and CoM measures was "very good news for Bosnia" and hinted that Rehn may travel to Sarajevo as early as next week to initial the SAA.

10. (C) Lajcak cautioned, however, that more work was required on the CoM measure, and laid out the steps he would take over the weekend to close the deal. On Saturday, December 1, legal experts from the RS Government and OHR will meet to discuss the authentic interpretation that will accompany the HighRep's October 19 CoM measures. A meeting between OHR and Bosniak and Croat legal experts will follow for the sake of balance and transparency. On Monday, December 3, the CoM will convene, and OHR will promulgate the authentic interpretation. The CoM will then formally accept both the Mostar Declaration and the Sarajevo timetable for police reform, which will make it possible for Rehn to initial the SAA on December 4, parallel to EUFOR's Change of Command ceremony which will bring leading EU officials such as Javier Solana, as well as the German and Spanish Ministers of Defense, to Sarajevo.

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